

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE  
AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.2426 of 2021

S.Surya Moorthi

.. Petitioner-in-Person

Vs.

The Union of India,  
rep. by the Chief Election Commissioner,  
Election Commission of India (ECI),  
Nirvachan Sadan,  
Ashok Road,  
New Delhi - 110 001.

.. Respondent

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondent to submit a report before this Hon'ble Court ensuring that all the recognised political parties in the State of Tamil Nadu, as the case may be, have completed their respective internal party elections prior to facing the forthcoming Tamil Nadu Assembly Election, 2021 forthwith.

For Petitioner : Mr.S.Surya Moorthi  
Petitioner-in-person

For Respondent : Mr.Niranjan Rajagopalan  
Standing Counsel

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

There is some basis to the petition and, if nothing else, the sentiment expressed by the petitioner needs to be respected.

2. The petitioner insinuates that a democratic process of election as envisaged by the Constitution cannot be meaningful without the political parties participating thereat embracing the democratic ethos and completing their internal elections in the first place. The Constitution is silent on the nature and qualification of the political parties which put up candidates for election to legislative bodies. It may not have been in the contemplation of the Constitution-makers that though the form of government both at the Centre and in the States was fashioned after the Westminster style, in fact, some of them would be run on the presidential basis as in the United States with a single

person or a few persons exercising real authority. It is plain to see in certain cases that the collective authority or the collective wisdom that the Constitution envisages governments to be run by, may not be effected even in letter, far less in spirit.

3. However, the prayer in the writ petition is to arrest the 2021 general elections to the State Assembly until the political parties in the fray, or at least the more prominent parties, conduct their internal elections. Since the Assembly elections have already been concluded, the prayer has become infructuous and the relief can no longer be granted. However, the petitioner's sentiment must be respected as it reveals the highest regard for democratic principles.

4. W.P.No.2426 of 2021 is disposed of without going into the matters canvassed by the petitioner and by leaving the petitioner free to press the grounds at a more appropriate stage. Nothing in this order should be regarded as a rejection of the contentions raised by the petitioner.

There will be no order as to costs. Consequently, W.M.P.Nos.2741 and 3484 of 2021 are closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bbr  
To:

The Chief Election Commissioner,  
Union of India,  
Election Commission of India (ECI),  
Nirvachan Sadan,  
Ashok Road,  
New Delhi - 110 001.

+1 cc to M/s.G.R.Associates, Advocate, SR.NO.22391

W.P.No.2426 of 2021

PL(CO)  
NS(10/05/2021)